The clause in the federal Constitution is conceded to refer only to the federal courts, *Eilenbecker* v. *District Court* (1889) 134 U. S. 31, but jury trial is provided for in all the State constitutions. In many, perhaps a majority, the provision is for the preservation of trial by jury. Under such a provision, a summary conviction valid before the adoption of the constitution would of course still be valid. *Byers* v. *Comm.* (1862) 42 Pa. St. 89. In construing clauses similar to the federal provision, however, the cases are not uniform. Many hold as in the principal case, Ex parte *Marx* (1889) 86 Va. 40; *State* v. *Conlin* (1855) 27 Vt. 318, while some reach the opposite result. In re *Rolfs* (1883) 30 Kans. 758; *Belatti* v. *Pierce* (1896) 8 S. D. 456. In *Callan* v. *Wilson* supra, is a dictum that there are cases where jury trial is not required by the federal Constitution, but while on the Kansas bench, BREWER, J., pointed out the importance of the distinction between a provision preserving trial by jury and one requiring all crimes to be tried by jury. In re *Rolfs*, supra. The distinction seems well taken, and it applies with still stronger force to the case of the federal Constitution in view of the condemnation of the practice of summary convictions pronounced by influential legal writers of the time of its adoption.

The courts have been much pressed by practical considerations. The very great inconvenience of requiring trial by jury for trivial offences and the long acquiescence in summary convictions and the consequent "revolution," as it is termed by several courts, which would follow a declaration of a universal right of trial by jury, are considerations of very great weight, and it is these considerations which are perhaps a warrant for the result reached in the principal case. There are, however, practical objections to the rule of the principal case, for there is no definite line between the cases there declared triable by jury and those not necessarily so triable, and instead of a uniform rule for all cases, there are substituted two rules, the extent of the application of which is and necessarily must remain more or less uncertain.

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DOUBLE TAXATION BY COMPETING AUTHORITIES.—While the ancient principle that political allegiance formed the basis of the individual's fiscal obligation to the government has generally been abandoned, the States are not always in harmony as to what principle shall supersede it. Two views are constantly conflicting: one that the owner's domicile shall determine the government to which the obligation is due; and the other that the location of the property shall be the test. Without exception the latter, the so-called rule of situs, is applied to real estate, and the property is taxed where located. With regard to personalty, however, many of the States have adopted a rule of the common law, mobilia sequuntur personam, as an expression of the principle, and the property is taxed at the domicile of the owner. Story, Conflict of Laws, 8th ed., §§ 362, 383. 550. Many of the States have even here applied the rule of situs, some by statute, Ind. Rev. Stat. sec. 6287; and some by judicial interpretation, *Hoyt* v. *Comm.* (1861) 23 N. Y. 224. It is clear that neither principle applied to the exclusion of the other is entirely satisfactory from an economic standpoint. Seligman, Essays in Taxation, p. 110. A resident of a State who derives his entire income from without the State certainly

owes some obligation to the government of his domicile. On the other hand does he not owe some obligation to the government within whose jurisdiction is located the property or business from which his income is derived? It is equally evident that the lack of uniform application of the principles is productive of injustice to the individual or a loss of revenue to the State: for if the individual's residence is in a jurisdiction where the law of domicile is applied, and the property is where the law of situs governs, he will be twice taxed; if the facts of his residence and the property's location are reversed he will escape taxation entirely.

With regard, however, to the intangible forms of personalty the problem is still further complicated. It is the generally accepted doctrine that such forms of property have no situs. Story, supra, § 360. Their taxable situs has generally and by the highest authority been held to be with the owner. *Kirtland* v. *Hotchkiss* (1879) 100 U. S. 491. An exception, however, obtains in some jurisdictions, and credits are held to acquire a taxable situs, independent of the owner, within the jurisdiction where the debtor resides or where the security is located, if present there in the hands of an agent with absolute control over them, to manage and collect them, and to reinvest the proceeds. *Catlin* v. *Hull* (1849) 21 Vt. 152; *Goldgart* v. *The People* (1883) 106 Ill. 25. But the Supreme Court of Indiana would seem to have gone still further when they declared in a recent case that notes, owned by a non-resident, and secured by mortgages on land without the State, were taxable in the hands of an agent within the State. *Buck* v. *Beach* (1904) 71 N. E. 963. It is difficult to justify the decision on principle or on authority. For the purposes of taxation the notes and mortgages could not be separated; they were the same property. The jurisdiction of a State is doubtless absolute over personalty within its borders. Story, supra, § 550. But the paper on which the notes or mortgages were written was simply evidence of a credit. or interest in land. That interest was with the security. The economic situs was also there. Though the State of the owner's residence and the State where the security was located might rightly have claimed some obligation from the owner, it is difficult to see how any obligation was owing to the State where the mere evidence of the owner's interest in the security was located. The United States Supreme Court has held that a chose in action has no taxable situs away from the owner. *State Tax on Foreign-Held Bonds Case* (1872) 15 Wall. 300. It is only by declaring mortgages interests in realty that the State of the location of the security has been able to reach them. *Savings Society* v. *Multnomah Co.* (1898) 169 U. S. 421. Walker Double Taxation, p. 97. In view of this it is difficult to see how the decision of the Indiana Court can be sustained.

But the complications which may arise from such a law are serious. Had the owner resided in a jurisdiction where mortgages were taxable to him, and had the land been located in a jurisdiction where mortgages were declared an interest in realty, the taxation of the owner would have been threefold. The sole solution of the problem would seem to lie in a substantial inter-state agreement, and a recognition of economic principles as the basis of any tax law that can endure.